

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

SHERIA NA-RA BELLE-BEY,)
)
Plaintiff,)
)
vs.) Case No. 4:23-CV-00491-JSD
)
MARTIN O'MALLEY¹,)
Commissioner of Social Security,)
)
Defendant.)

MEMORANDUM AND ORDER

This matter is before the Court on its review of the record. Plaintiff has been granted five (5) extensions of time to file her Social Security Brief in support of her Complaint. [See ECF Nos. 10, 12, 15, 19, and 23]. On December 18, 2023, this Court granted Plaintiff an extension of time, the Court informed her that no more extensions would be granted without good cause. [See ECF No. 23]. On February 2, 2024, this Court denied Plaintiff's Motion for another extension, finding that she had not shown good cause, and ordering her to file her Brief in support of her Complaint by February 9, 2023. [ECF No. 30]. On February 12, 2024, Plaintiff filed a Notice saying that she did not receive the Court's order until February 9, but would have her Brief filed by February 20, 2024. [ECF No. 29]. As of February 20, Plaintiff had not filed her Brief.

“According to Rule 41(b), a district court may dismiss a case if ‘the plaintiff fails to prosecute’ or doesn’t comply with the Federal Rules of Civil Procedure or a court order.” *DiMercurio v. Malcom*, 716 F.3d 1138, 1140 (8th Cir. 2013) (citing Fed. R. Civ. P. 41(b)); *Burgs v. Sissel*, 745 F.2d 526, 528 (8th Cir. 1984) (citing *M.S. v. Wermers*, 557 F.2d 170, 175 (8th Cir. 1977); *Welsh v. Automatic Poultry Feeder Co.*, 439 F.2d 95, 96 (8th Cir. 1971) (“A district court has power to dismiss an action for refusal of the plaintiff to comply with any order of court, Fed.R.Civ.P. 41(b), and such action may be taken on the court’s own motion.”). “Plaintiff was

¹ Martin O’Malley was sworn in as Commissioner of the Social Security Administration on December 20, 2023. See Fed. R. Civ. P. 25(d).

given meaningful notice of what was expected, and cautioned that his case would be dismissed if he failed to timely comply.” *Seals v. Marshaik*, No. 4:21-CV-1468-NAB, 2022 WL 741863, at *1 (E.D. Mo. Mar. 11, 2022). The Court, therefore, dismisses Belle-Bey’s case, without prejudice, for failure to comply with the Court’s Order and file her Social Security Brief in support of her Complaint by February 9, 2024, or indeed by February 20, 2024.

Accordingly,

IT IS HEREBY ORDERED that this case is **DISMISSED** without prejudice for Plaintiff Sheria Na-Ra Belle-Bey’s failure to comply with the Court’s Order and file her Social Security Brief in support of her Complaint. A separate order of dismissal will be entered herewith.

IT IS FURTHER ORDERED that Martin J. O’Malley is now the Commissioner of Social Security. Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, he is substituted for Acting Commissioner Kilolo Kijakazi as the Defendant in this suit.



JOSEPH S. DUEKER
UNITED STATES MAGISTRATE JUDGE

Dated this 21st day of February, 2024.